IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1227 (S/S) of 2005

Padmawati Danu,
Daughter of late Sri P.S. Danu,
Resident of Sunarinaulla, Kholta,
District – Almora. ……Petitioner.

Versus.

1. State of Uttaranchal, through Director, Basic Education, Uttaranchal, Dehradun.
2. Director Education Officer, Almora.
3. Head Master, Prathmik Vidyalaya, Jeili, Hawalbagh, Almora.
4. Basic Education Officer, Almora.

……Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri N.S. Negi, learned counsel for the petitioner and learned standing counsel, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of Certiorari quashing the order No. 174/Praband/2005-06 dated 09.08.2005 issued by District Education Officer, Almora i.e. respondent no. 2 by which the petitioner has been transferred from Primary School, Jeoli, Hawalbagh, to Primary School, Qwarela, Bhanar, Hawalbagh.

The submission of the petitioner is that petitioner was appointed on regular basis and posted as Assistant Teacher in Primary School, Jeoli, Hawalbagh, District – Almora, on 03.07.2003. By order dated 30.06.2005, petitioner was transferred from Primary School, Jeoli, Hawalbagh, District – Almora to Primary School, Shelta, Chapad, Lamgada, Almora. The said transfer order was later on modified by respondent no. 2 and the petitioner has been transferred to Primary School, Qwarela, Bhanar, Hawalbagh. The earlier transfer order dated 30.06.2005 was not given effect and the petitioner is permitted to continue at Primary School, Jeoli, Hawalbagh.

Learned counsel for the petitioner has submitted that petitioner has yet not completed three years of services at Jeoli, Hawalbagh and she has been transferred Primary School, Qwarela, Bhanar, Hawalbagh by respondent no. 2, which is against the transfer policy issued by the State Government. The basis on which the petitioner has been transferred is that in the present school, where the petitioner is working, she is the surplus teacher and is not working against the sanctioned strength of teacher.

The contention of the petitioner is that in Primary School, Jeoli, Hawalbagh, there are more that 100 students and as per policy issued by the Government the strength of teachers for the school where students are more than 100 would be three teachers. There are only three teachers including the petitioner and as such, the ground that petitioner comes within the surplus teacher is not correct.

Learned counsel for the petitioner has submitted that the transfer order has been served upon the petitioner only on 23.08.2005 and till date no one has taken charge, in place of the petitioner at Primary School, Jeoli, Hawalbagh.

In this respect, the petitioner has made representation to the respondent no. 2 on 24.08.2005 which is pending before him.

During the course of argument, learned counsel for the petitioner has confined his prayer that respondent no. 2 may be directed to decide the representation of the petitioner within a particular period.

The prayer is innocuous. Respondent no. 2 is directed to decide the representation of the petitioner dated 24.08.2005 (Annexure no. 5 of the writ petition) within a period of two weeks' from the date of production of certified copy of this order. Till the decision is taken on the representation of the petitioner, petitioner is permitted to continue at Jeoli, Hawalbagh, in case, she has not already been relieved.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 29, 2005
SKSharma